

# STATE OF NEW YORK

3430--A

2021-2022 Regular Sessions

## IN ASSEMBLY

January 26, 2021

Introduced by M. of A. McDONALD, FAHY, GRIFFIN, WOERNER, OTIS, STERN, LUPARDO, GALEF, TAYLOR, DICKENS, B. MILLER, BUTTENSCHON, GUNTHER, McDONOUGH, TAGUE, ENGLEBRIGHT, ABINANTI -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state finance law and the public authorities law, in relation to the purchase of personal protective equipment and medical supplies produced or manufactured in the state of New York

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 1 and 3 of section 148 of the state finance  
2 law, as added by section 2 of part BB of chapter 55 of the laws of 2021,  
3 are amended to read as follows:  
4 1. Notwithstanding any other provisions of law, all contracts over  
5 fifty thousand dollars in value made and awarded by any department or  
6 agency of the state for the purchase of personal protective equipment or  
7 medical supplies shall require that the personal protective equipment or  
8 medical supply items be produced or made in whole or substantial part in  
9 the [~~United States~~] state of New York; and shall utilize, to the extent  
10 practicable, preferred sources in accordance with section one hundred  
11 sixty-two of the state finance law, for at least thirty percent of such  
12 personal protective equipment or medical supply items.  
13 3. The provisions of this section shall not apply if the head of the  
14 department or agency purchasing the personal protective equipment or  
15 medical supplies, in his or her sole discretion, determines that such  
16 provisions would not be in the public interest; that obtaining such  
17 personal protective equipment or medical supplies produced or made in  
18 the state of New York or in the United States would increase the cost of  
19 the contract by an unreasonable amount; that such personal protective

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 equipment or medical supplies cannot be produced or made in the state of  
2 New York or in the United States in sufficient and reasonably available  
3 quantities and of satisfactory quality or design to meet the depart-  
4 ment's or agency's requirements; or that purchasing personal protective  
5 equipment or medical supplies manufactured outside of the state of New  
6 York or outside of the United States is necessary to avoid a delay in  
7 the delivery of critical services that could compromise the public  
8 welfare. In the event a New York state source or a preferred source is  
9 not able to supply personal protective equipment or medical supply  
10 items, any other personal protective equipment or medical supply items  
11 produced or made in whole or substantial part in the United States may  
12 be utilized to satisfy the requirements of this subdivision.

13 § 2. Subdivisions 1 and 3 of section 2878-c of the public authorities  
14 law, as added by section 3 of part BB of chapter 55 of the laws of 2021,  
15 are amended to read as follows:

16 1. Notwithstanding any other provisions of law, all contracts over  
17 fifty thousand dollars in value made and awarded by any state authority  
18 for the purchase of personal protective equipment or medical supplies  
19 shall require that the personal protective equipment or medical supply  
20 items be produced or made in whole or substantial part in the [~~United~~  
21 ~~States~~] state of New York; and shall utilize, to the extent practicable,  
22 preferred sources in accordance with section one hundred sixty-two of  
23 the state finance law, for at least thirty percent of such personal  
24 protective equipment or medical supply items.

25 3. The provisions of this section shall not apply if the head of the  
26 state authority purchasing the personal protective equipment or medical  
27 supplies, in his or her sole discretion, determines that such provisions  
28 would not be in the public interest; that obtaining such personal  
29 protective equipment or medical supplies in the state of New York or  
30 outside of the United States would increase the cost of the contract by  
31 an unreasonable amount; that such personal protective equipment or  
32 medical supplies cannot be produced or made in the state of New York or  
33 in the United States in sufficient and reasonably available quantities  
34 and of satisfactory quality or design to meet the state authority's  
35 requirements; or that purchasing personal protective equipment or  
36 medical supplies manufactured outside of the state of New York or  
37 outside of the United States is necessary to avoid a delay in the deliv-  
38 ery of critical services that could compromise the public welfare. In  
39 the event a New York state source or a preferred source is not able to  
40 supply personal protective equipment or medical supply items, any other  
41 personal protective equipment or medical supply items produced or made  
42 in whole or substantial part in the United States may be utilized to  
43 satisfy the requirements of this subdivision.

44 § 3. This act shall take effect on the sixtieth day after it shall  
45 have become a law and shall apply to any state contracting opportunities  
46 advertised on or after such date and shall exclude contracts for which  
47 an invitation for bid, request for proposal, or similar solicitation has  
48 been issued prior to this proposal becoming effective.